

ESSB 5396 - H COMM AMD
By Committee on Capital Budget

ADOPTED 04/14/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 79A.15.010 and 1990 1st ex.s. c 14 s 2 are each
4 amended to read as follows:

5 The definitions set forth in this section apply throughout this
6 chapter.

7 (1) "Acquisition" means the purchase on a willing seller basis of
8 fee or less than fee interests in real property. These interests
9 include, but are not limited to, options, rights of first refusal,
10 conservation easements, leases, and mineral rights.

11 (2) "Committee" means the interagency committee for outdoor
12 recreation.

13 (3) "Critical habitat" means lands important for the protection,
14 management, or public enjoyment of certain wildlife species or groups
15 of species, including, but not limited to, wintering range for deer,
16 elk, and other species, waterfowl and upland bird habitat, fish
17 habitat, and habitat for endangered, threatened, or sensitive species.

18 (4) "Farmlands" means any land defined as "farm and agricultural
19 land" in RCW 84.34.020(2).

20 (5) "Local agencies" means a city, county, town, federally
21 recognized Indian tribe, special purpose district, port district, or
22 other political subdivision of the state providing services to less
23 than the entire state.

24 (~~(5)~~) (6) "Natural areas" means areas that have, to a significant
25 degree, retained their natural character and are important in
26 preserving rare or vanishing flora, fauna, geological, natural
27 historical, or similar features of scientific or educational value.

28 (~~(6)~~) (7) "Riparian habitat" means land adjacent to water bodies,
29 as well as submerged land such as streambeds, which can provide

1 functional habitat for salmonids and other fish and wildlife species.
2 Riparian habitat includes, but is not limited to, shorelines and near-
3 shore marine habitat, estuaries, lakes, wetlands, streams, and rivers.

4 (8) "Special needs populations" means physically restricted people
5 or people of limited means.

6 ((+7)) (9) "State agencies" means the state parks and recreation
7 commission, the department of natural resources, the department of
8 general administration, and the department of fish and wildlife.

9 (10) "Trails" means public ways constructed for and open to
10 pedestrians, equestrians, or bicyclists, or any combination thereof,
11 other than a sidewalk constructed as a part of a city street or county
12 road for exclusive use of pedestrians.

13 ((+8)) (11) "Urban wildlife habitat" means lands that provide
14 habitat important to wildlife in proximity to a metropolitan area.

15 ((+9)) (12) "Water access" means boat or foot access to marine
16 waters, lakes, rivers, or streams.

17 **Sec. 2.** RCW 79A.15.030 and 2000 c 11 s 66 are each amended to read
18 as follows:

19 (1) Moneys appropriated for this chapter shall be divided ((~~equally~~
20 ~~between the habitat conservation and outdoor recreation accounts and~~
21 ~~shall be used exclusively for the purposes specified in this chapter~~))
22 as follows:

23 (a) Appropriations for a biennium of forty million dollars or less
24 must be allocated equally between the habitat conservation account and
25 the outdoor recreation account.

26 (b) If appropriations for a biennium total more than forty million
27 dollars, the money must be allocated as follows: (i) Twenty million
28 dollars to the habitat conservation account and twenty million dollars
29 to the outdoor recreation account; (ii) any amount over forty million
30 dollars up to fifty million dollars shall be allocated as follows: (A)
31 Ten percent to the habitat conservation account; (B) ten percent to the
32 outdoor recreation account; (C) forty percent to the riparian
33 protection account; and (D) forty percent to the farmlands preservation
34 account; and (iii) any amounts over fifty million dollars must be
35 allocated as follows: (A) Thirty percent to the habitat conservation
36 account; (B) thirty percent to the outdoor recreation account; (C)

1 thirty percent to the riparian protection account; and (D) ten percent
2 to the farmlands preservation account.

3 (2) Except as otherwise provided in this act, moneys deposited in
4 these accounts shall be invested as authorized for other state funds,
5 and any earnings on them shall be credited to the respective account.

6 (3) All moneys deposited in the habitat conservation ((and)),
7 outdoor recreation, riparian protection, and farmlands preservation
8 accounts shall be allocated as provided under RCW 79A.15.040 ((and)),
9 79A.15.050, and sections 6 and 7 of this act as grants to state or
10 local agencies for acquisition, development, and renovation within the
11 jurisdiction of those agencies, subject to legislative appropriation.
12 The committee may use or permit the use of any funds appropriated for
13 this chapter as matching funds where federal, local, or other funds are
14 made available for projects within the purposes of this chapter.
15 Moneys appropriated to these accounts that are not obligated to a
16 specific project may be used to fund projects from lists of alternate
17 projects from the same account in biennia succeeding the biennium in
18 which the moneys were originally appropriated.

19 (4) Projects receiving grants under this chapter that are developed
20 or otherwise accessible for public recreational uses shall be available
21 to the public ((on a nondiscriminatory basis)).

22 (5) The committee may make grants to an eligible project from
23 ((both)) the habitat conservation ((and)), outdoor recreation, riparian
24 protection, and farmlands preservation accounts and any one or more of
25 the applicable categories under such accounts described in RCW
26 79A.15.040 ((and)), 79A.15.050, and sections 6 and 7 of this act.

27 (6) The committee may accept private donations to the habitat
28 conservation account, the outdoor recreation account, the riparian
29 protection account, and the farmlands preservation account for the
30 purposes specified in this chapter.

31 (7) The committee may apply up to three percent of the funds
32 appropriated for this chapter for the administration of the programs
33 and purposes specified in this chapter.

34 (8) Habitat and recreation land and facilities acquired or
35 developed with moneys appropriated for this chapter may not, without
36 prior approval of the committee, be converted to a use other than that
37 for which funds were originally approved. The committee shall adopt
38 rules and procedures governing the approval of such a conversion.

1 **Sec. 3.** RCW 79A.15.040 and 1999 c 379 s 917 are each amended to
2 read as follows:

3 (1) Moneys appropriated for this chapter to the habitat
4 conservation account shall be distributed in the following way:

5 (a) Not less than (~~thirty-five~~) forty percent through June 30,
6 2011, at which time the amount shall become forty-five percent, for the
7 acquisition and development of critical habitat;

8 (b) Not less than (~~twenty~~) thirty percent for the acquisition and
9 development of natural areas;

10 (c) Not less than (~~fifteen~~) twenty percent for the acquisition
11 and development of urban wildlife habitat; and

12 (d) (~~The remaining amount shall be considered unallocated and~~)
13 Not less than ten percent through June 30, 2011, at which time the
14 amount shall become five percent, shall be used by the committee to
15 fund (~~high priority acquisition and development needs for critical~~
16 ~~habitat, natural areas, and urban wildlife habitat. During the fiscal~~
17 ~~biennium ending June 30, 2001, the remaining amount reappropriated from~~
18 ~~the fiscal biennium ending June 30, 1999, may be allocated for matching~~
19 ~~grants for riparian zone habitat protection projects that implement~~
20 ~~watershed plans under the program established in section 329(6),~~
21 ~~chapter 235, Laws of 1997)) restoration and enhancement projects on
22 state lands. Only the department of natural resources and the
23 department of fish and wildlife may apply for these funds to be used on
24 existing habitat and natural area lands.~~

25 (2)(a) In distributing these funds, the committee retains
26 discretion to meet the most pressing needs for critical habitat,
27 natural areas, and urban wildlife habitat, and is not required to meet
28 the percentages described in subsection (1) of this section in any one
29 biennium.

30 **(b)** If not enough project applications are submitted in a category
31 within the habitat conservation account to meet the percentages
32 described in subsection (1) of this section in any biennium, the
33 committee retains discretion to distribute any remaining funds to the
34 other categories within the account.

35 (3) Only state agencies may apply for acquisition and development
36 funds for (~~critical habitat and~~) natural areas projects under
37 subsection (1)(~~(a),~~) (~~(b),~~ and (~~(d)~~) of this section.

1 (4) State and local agencies may apply for acquisition and
2 development funds for critical habitat and urban wildlife habitat
3 projects under subsection (1)(a) and (c) (~~and (d)~~) of this section.

4 (5)(a) Any lands that have been acquired with grants under this
5 section by the department of fish and wildlife are subject to an amount
6 in lieu of real property taxes and an additional amount for control of
7 noxious weeds as determined by RCW 77.12.203.

8 (b) Any lands that have been acquired with grants under this
9 section by the department of natural resources are subject to payments
10 in the amounts required under the provisions of sections 11 and 12 of
11 this act.

12 **Sec. 4.** RCW 79A.15.050 and 2003 c 184 s 1 are each amended to read
13 as follows:

14 (1) Moneys appropriated for this chapter to the outdoor recreation
15 account shall be distributed in the following way:

16 (a) Not less than (~~twenty-five~~) thirty percent to the state parks
17 and recreation commission for the acquisition and development of state
18 parks, with at least (~~seventy-five~~) fifty percent of (~~this~~) the
19 money for acquisition costs (~~(. However, between July 27, 2003, and~~
20 ~~June 30, 2009, at least fifty percent of this money for the acquisition~~
21 ~~and development of state parks must be used for acquisition costs))~~;

22 (b) Not less than (~~twenty-five~~) thirty percent for the
23 acquisition, development, and renovation of local parks, with at least
24 fifty percent of this money for acquisition costs;

25 (c) Not less than (~~fifteen~~) twenty percent for the acquisition
26 (~~and~~), renovation, or development of trails;

27 (d) Not less than (~~ten~~) fifteen percent for the acquisition
28 (~~and~~), renovation, or development of water access sites, with at
29 least seventy-five percent of this money for acquisition costs; and

30 (e) (~~The remaining amount shall be considered unallocated and~~
31 ~~shall be distributed by the committee to state and local agencies to~~
32 ~~fund high priority acquisition and development needs for parks, trails,~~
33 ~~and water access sites)) Not less than five percent for development and
34 renovation projects on state recreation lands. Only the department of
35 natural resources and the department of fish and wildlife may apply for
36 these funds to be used on their existing recreation lands.~~

1 (2)(a) In distributing these funds, the committee retains
2 discretion to meet the most pressing needs for state and local parks,
3 trails, and water access sites, and is not required to meet the
4 percentages described in subsection (1) of this section in any one
5 biennium.

6 **(b) If not enough project applications are submitted in a category**
7 **within the outdoor recreation account to meet the percentages described**
8 **in subsection (1) of this section in any biennium, the committee**
9 **retains discretion to distribute any remaining funds to the other**
10 **categories within the account.**

11 (3) Only local agencies may apply for acquisition, development, or
12 renovation funds for local parks under subsection (1)(b) of this
13 section.

14 (4) Only state and local agencies may apply for funds for trails
15 under subsection (1)(c) of this section.

16 (5) Only state and local agencies may apply for funds for water
17 access sites under subsection (1)(d) of this section.

18 **NEW SECTION. Sec. 5.** A new section is added to chapter 79A.15 RCW
19 to read as follows:

20 A state or local agency shall review the proposed project
21 application with the county or city with jurisdiction over the project
22 area prior to applying for funds for the acquisition of property under
23 this chapter. The appropriate county or city legislative authority
24 may, at its discretion, submit a letter to the committee identifying
25 the authority's position with regard to the acquisition project. The
26 committee shall make the letters received under this section available
27 to the governor and the legislature when the prioritized project list
28 is submitted under section 6 of this act, RCW 79A.15.060, and
29 79A.15.070.

30 **NEW SECTION. Sec. 6.** A new section is added to chapter 79A.15 RCW
31 to read as follows:

32 (1) The riparian protection account is established in the state
33 treasury. The committee must administer the account in accordance with
34 chapter 79A.25 RCW and this chapter, and hold it separate and apart
35 from all other money, funds, and accounts of the committee.

1 (2) Moneys appropriated for this chapter to the riparian protection
2 account must be distributed for the acquisition or enhancement or
3 restoration of riparian habitat. All enhancement or restoration
4 projects, except those qualifying under subsection (10)(a) of this
5 section, must include the acquisition of a real property interest in
6 order to be eligible.

7 (3) State and local agencies and lead entities under chapter 77.85
8 RCW may apply for acquisition and enhancement or restoration funds for
9 riparian habitat projects under subsection (1) of this section. Other
10 state agencies not defined in RCW 79A.15.010, such as the department of
11 transportation and the department of corrections, may enter into
12 interagency agreements with state agencies to apply in partnership for
13 funds under this section.

14 (4) The committee may adopt rules establishing acquisition policies
15 and priorities for distributions from the riparian protection account.

16 (5) Except as provided in RCW 79A.15.030(7), moneys appropriated
17 for this section may not be used by the committee to fund staff
18 positions or other overhead expenses, or by a state, regional, or local
19 agency to fund operation or maintenance of areas acquired under this
20 chapter.

21 (6) Moneys appropriated for this section may be used by grant
22 recipients for costs incidental to restoration and acquisition,
23 including, but not limited to, surveying expenses, fencing, and
24 signing.

25 (7) Moneys appropriated for this section may be used to fund
26 mitigation banking projects involving the restoration, creation,
27 enhancement, or preservation of riparian habitat, provided that the
28 parties seeking to use the mitigation bank meet the matching
29 requirements of subsection (8) of this section. The moneys from this
30 section may not be used to supplant an obligation of a state or local
31 agency to provide mitigation. For the purposes of this section, a
32 mitigation bank means a site or sites where riparian habitat is
33 restored, created, enhanced, or in exceptional circumstances, preserved
34 expressly for the purpose of providing compensatory mitigation in
35 advance of authorized project impacts to similar resources.

36 (8) The committee may not approve a local project where the local
37 agency share is less than the amount to be awarded from the riparian

1 protection account. In-kind contributions, including contributions of
2 a real property interest in land may be used to satisfy the local
3 agency's share.

4 (9) State agencies receiving grants for acquisition of land under
5 this section must pay an amount in lieu of real property taxes equal to
6 the amount of tax that would be due if the land were taxable as open
7 space land under chapter 84.34 RCW except taxes levied for any state
8 purpose, plus an additional amount for control of noxious weeds equal
9 to that which would be paid if such lands were privately owned. In
10 counties having less than thirty percent of land in private ownership,
11 the amount in lieu of real property taxes must be based on one hundred
12 percent of the property's true and fair value under chapter 84.40 RCW
13 except taxes levied for any state purpose. The county assessor and
14 county legislative authority shall assist in determining the
15 appropriate calculation of the amount of tax that would be due.

16 (10) In determining acquisition priorities with respect to the
17 riparian protection account, the committee must consider, at a minimum,
18 the following criteria:

19 (a) Whether the project continues the conservation reserve
20 enhancement program. Applications that extend the duration of leases
21 of riparian areas that are currently enrolled in the conservation
22 reserve enhancement program shall be eligible. Such applications are
23 eligible for a conservation lease extension of at least twenty-five
24 years of duration;

25 (b) Whether the projects are identified or recommended in a
26 watershed planning process under chapter 247, Laws of 1998, salmon
27 recovery planning under chapter 77.85 RCW, or other local plans, such
28 as habitat conservation plans, and these must be highly considered in
29 the process;

30 (c) Whether there is community support for the project;

31 (d) Whether the proposal includes an ongoing stewardship program
32 that includes control of noxious weeds, detrimental invasive species,
33 and that identifies the source of the funds from which the stewardship
34 program will be funded;

35 (e) Whether there is an immediate threat to the site;

36 (f) Whether the quality of the habitat is improved or, for projects
37 including restoration or enhancement, the potential for restoring

1 quality habitat including linkage of the site to other high quality
2 habitat;

3 (g) Whether the project is consistent with a local land use plan,
4 or a regional or statewide recreational or resource plan. The projects
5 that assist in the implementation of local shoreline master plans
6 updated according to RCW 90.58.080 or local comprehensive plans updated
7 according to RCW 36.70A.130 must be highly considered in the process;

8 (h) Whether the site has educational or scientific value; and

9 (i) Whether the site has passive recreational values for walking
10 trails, wildlife viewing, or the observation of natural settings.

11 (11) Before November 1st of each even-numbered year, the committee
12 will recommend to the governor a prioritized list of projects to be
13 funded under this section. The governor may remove projects from the
14 list recommended by the committee and will submit this amended list in
15 the capital budget request to the legislature. The list must include,
16 but not be limited to, a description of each project and any particular
17 match requirement.

18 NEW SECTION. **Sec. 7.** A new section is added to chapter 79A.15 RCW
19 to read as follows:

20 (1) The farmlands preservation account is established in the state
21 treasury. The committee will administer the account in accordance with
22 chapter 79A.25 RCW and this chapter, and hold it separate and apart
23 from all other money, funds, and accounts of the committee. Moneys
24 appropriated for this chapter to the farmlands preservation account
25 must be distributed for the acquisition and preservation of farmlands
26 in order to maintain the opportunity for agricultural activity upon
27 these lands.

28 (2)(a) Moneys appropriated for this chapter to the farmlands
29 preservation account may be distributed for (i) the fee simple or less
30 than fee simple acquisition of farmlands; (ii) the enhancement or
31 restoration of ecological functions on those properties; or (iii) both.
32 In order for a farmland preservation grant to provide for an
33 environmental enhancement or restoration project, the project must
34 include the acquisition of a real property interest.

35 (b) If a city or county acquires a property through this program in
36 fee simple, the city or county shall endeavor to secure preservation of
37 the property through placing a conservation easement, or other form of

1 deed restriction, on the property which dedicates the land to
2 agricultural use and retains one or more property rights in perpetuity.
3 Once an easement or other form of deed restriction is placed on the
4 property, the city or county shall seek to sell the property, at fair
5 market value, to a person or persons who will maintain the property in
6 agricultural production. Any moneys from the sale of the property
7 shall either be used to purchase interests in additional properties
8 which meet the criteria in subsection (9) of this section, or to repay
9 the grant from the state which was originally used to purchase the
10 property.

11 (3) Cities and counties may apply for acquisition and enhancement
12 or restoration funds for farmland preservation projects within their
13 jurisdictions under subsection (1) of this section.

14 (4) The committee may adopt rules establishing acquisition and
15 enhancement or restoration policies and priorities for distributions
16 from the farmlands preservation account.

17 (5) The acquisition of a property right in a project under this
18 section by a county or city does not provide a right of access to the
19 property by the public unless explicitly provided for in a conservation
20 easement or other form of deed restriction.

21 (6) Except as provided in RCW 79A.15.030(7), moneys appropriated
22 for this section may not be used by the committee to fund staff
23 positions or other overhead expenses, or by a city or county to fund
24 operation or maintenance of areas acquired under this chapter.

25 (7) Moneys appropriated for this section may be used by grant
26 recipients for costs incidental to restoration and acquisition,
27 including, but not limited to, surveying expenses, fencing, and
28 signing.

29 (8) The committee may not approve a local project where the local
30 agency's share is less than the amount to be awarded from the farmlands
31 preservation account. In-kind contributions, including contributions
32 of a real property interest in land, may be used to satisfy the local
33 agency's share.

34 (9) In determining the acquisition priorities, the committee must
35 consider, at a minimum, the following criteria:

36 (a) Community support for the project;

37 (b) A recommendation as part of a limiting factors or critical

1 pathways analysis, a watershed plan or habitat conservation plan, or a
2 coordinated regionwide prioritization effort;

3 (c) The likelihood of the conversion of the site to nonagricultural
4 or more highly developed usage;

5 (d) Consistency with a local land use plan, or a regional or
6 statewide recreational or resource plan. The projects that assist in
7 the implementation of local shoreline master plans updated according to
8 RCW 90.58.080 or local comprehensive plans updated according to RCW
9 36.70A.130 must be highly considered in the process;

10 (e) Benefits to salmonids;

11 (f) Benefits to other fish and wildlife habitat;

12 (g) Integration with recovery efforts for endangered, threatened,
13 or sensitive species;

14 (h) The viability of the site for continued agricultural
15 production, including, but not limited to:

16 (i) Soil types;

17 (ii) On-site production and support facilities such as barns,
18 irrigation systems, crop processing and storage facilities, wells,
19 housing, livestock sheds, and other farming infrastructure;

20 (iii) Suitability for producing different types or varieties of
21 crops;

22 (iv) Farm-to-market access;

23 (v) Water availability; and

24 (i) Other community values provided by the property when used as
25 agricultural land, including, but not limited to:

26 (i) Viewshed;

27 (ii) Aquifer recharge;

28 (iii) Occasional or periodic collector for storm water runoff;

29 (iv) Agricultural sector job creation;

30 (v) Migratory bird habitat and forage area; and

31 (vi) Educational and curriculum potential.

32 (10) In allotting funds for environmental enhancement or
33 restoration projects, the committee will require the projects to meet
34 the following criteria:

35 (a) Enhancement or restoration projects must further the ecological
36 functions of the farmlands;

37 (b) The projects, such as fencing, bridging watercourses,

1 replanting native vegetation, replacing culverts, clearing of
2 waterways, etc., must be less than fifty percent of the acquisition
3 cost of the project including any in-kind contribution by any party;

4 (c) The projects should be based on accepted methods of achieving
5 beneficial enhancement or restoration results; and

6 (d) The projects should enhance the viability of the preserved
7 farmland to provide agricultural production while conforming to any
8 legal requirements for habitat protection.

9 (11) Before November 1st of each even-numbered year, the committee
10 will recommend to the governor a prioritized list of all projects to be
11 funded under this section. The governor may remove projects from the
12 list recommended by the committee and must submit this amended list in
13 the capital budget request to the legislature. The list must include,
14 but not be limited to, a description of each project and any particular
15 match requirement.

16 **Sec. 8.** RCW 79A.15.060 and 2000 c 11 s 67 are each amended to read
17 as follows:

18 (1) The committee may adopt rules establishing acquisition policies
19 and priorities for distributions from the habitat conservation account.

20 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
21 for this chapter may not be used by the committee to fund
22 ((additional)) staff positions or other overhead expenses, or by a
23 state, regional, or local agency to fund operation ((and)) or
24 maintenance of areas acquired under this chapter((, except that the
25 committee may use moneys appropriated for this chapter for the fiscal
26 biennium ending June 30, 2001, for the administrative costs of
27 implementing the pilot watershed plan implementation program
28 established in section 329(6), chapter 235, Laws of 1997, and
29 developing an inventory of publicly owned lands established in section
30 329(7), chapter 235, Laws of 1997)).

31 (3) Moneys appropriated for this chapter may be used by grant
32 recipients for costs incidental to acquisition, including, but not
33 limited to, surveying expenses, fencing, and signing.

34 (4) ~~((Except as provided in subsection (5) of this section,))~~
35 Moneys appropriated for this section may be used to fund mitigation
36 banking projects involving the restoration, creation, enhancement, or
37 preservation of critical habitat and urban wildlife habitat, provided

1 that the parties seeking to use the mitigation bank meet the matching
2 requirements of subsection (5) of this section. The moneys from this
3 section may not be used to supplant an obligation of a state or local
4 agency to provide mitigation. For the purposes of this section, a
5 mitigation bank means a site or sites where critical habitat or urban
6 wildlife habitat is restored, created, enhanced, or in exceptional
7 circumstances, preserved expressly for the purpose of providing
8 compensatory mitigation in advance of authorized project impacts to
9 similar resources.

10 (5) The committee may not approve a local project where the local
11 agency share is less than the amount to be awarded from the habitat
12 conservation account.

13 ~~((5) During the fiscal biennium ending June 30, 2001, the~~
14 ~~committee may approve a riparian zone habitat protection project~~
15 ~~established in section 329(6), chapter 235, Laws of 1997, where the~~
16 ~~local agency share is less than the amount to be awarded from the~~
17 ~~habitat conservation account.))~~

18 (6) In determining acquisition priorities with respect to the
19 habitat conservation account, the committee shall consider, at a
20 minimum, the following criteria:

21 (a) For critical habitat and natural areas proposals:

22 (i) Community support for the project;

23 (ii) The project proposal's ongoing stewardship program that
24 includes control of noxious weeds, detrimental invasive species, and
25 that identifies the source of the funds from which the stewardship
26 program will be funded;

27 (iii) Recommendations as part of a watershed plan or habitat
28 conservation plan, or a coordinated regionwide prioritization effort,
29 and for projects primarily intended to benefit salmon, limiting
30 factors, or critical pathways analysis;

31 (iv) Immediacy of threat to the site;

32 ~~((iii))~~ (v) Uniqueness of the site;

33 ~~((iv))~~ (vi) Diversity of species using the site;

34 ~~((v))~~ (vii) Quality of the habitat;

35 ~~((vi))~~ (viii) Long-term viability of the site;

36 ~~((vii))~~ (ix) Presence of endangered, threatened, or sensitive
37 species;

38 ~~((viii))~~ (x) Enhancement of existing public property;

1 ~~((ix))~~ (xi) Consistency with a local land use plan, or a regional
2 or statewide recreational or resource plan, including projects that
3 assist in the implementation of local shoreline master plans updated
4 according to RCW 90.58.080 or local comprehensive plans updated
5 according to RCW 36.70A.130; ~~(and~~
6 ~~(x))~~ (xii) Educational and scientific value of the site;
7 (xiii) Integration with recovery efforts for endangered,
8 threatened, or sensitive species;
9 (xiv) For critical habitat proposals by local agencies, the
10 statewide significance of the site.

11 (b) For urban wildlife habitat proposals, in addition to the
12 criteria of (a) of this subsection:

- 13 (i) Population of, and distance from, the nearest urban area;
- 14 (ii) Proximity to other wildlife habitat;
- 15 (iii) Potential for public use; and
- 16 (iv) Potential for use by special needs populations.

17 (7) ~~((Before October 1st of each even-numbered year, the committee~~
18 ~~shall recommend to the governor a prioritized list of state agency~~
19 ~~projects to be funded under RCW 79A.15.040(1) (a), (b), and (c). The~~
20 ~~governor may remove projects from the list recommended by the committee~~
21 ~~and shall submit this amended list in the capital budget request to the~~
22 ~~legislature. The list shall include, but not be limited to, a~~
23 ~~description of each project; and shall describe for each project any~~
24 ~~anticipated restrictions upon recreational activities allowed prior to~~
25 ~~the project.~~

26 ~~(8))~~ Before ~~((October))~~ November 1st of each even-numbered year,
27 the committee shall recommend to the governor a prioritized list of all
28 state agency and local projects to be funded under RCW 79A.15.040(1)
29 (a), (b), and (c). The governor may remove projects from the list
30 recommended by the committee and shall submit this amended list in the
31 capital budget request to the legislature. The list shall include, but
32 not be limited to, a description of each project and any particular
33 match requirement, and describe for each project any anticipated
34 restrictions upon recreational activities allowed prior to the project.

35 **Sec. 9.** RCW 79A.15.070 and 2000 c 11 s 68 are each amended to read
36 as follows:

1 (1) In determining which state parks proposals and local parks
2 proposals to fund, the committee shall use existing policies and
3 priorities.

4 (2) Except as provided in RCW 79A.15.030(7), moneys appropriated
5 for this chapter may not be used by the committee to fund
6 ~~((additional))~~ staff or other overhead expenses, or by a state,
7 regional, or local agency to fund operation ~~((and))~~ or maintenance of
8 areas acquired under this chapter ~~((, except that the committee may use~~
9 ~~moneys appropriated for this chapter for the fiscal biennium ending~~
10 ~~June 30, 2001, for the administrative costs of implementing the pilot~~
11 ~~watershed plan implementation program established in section 329(6),~~
12 ~~chapter 235, Laws of 1997, and developing an inventory of publicly~~
13 ~~owned lands established in section 329(7), chapter 235, Laws of 1997)).~~

14 (3) Moneys appropriated for this chapter may be used by grant
15 recipients for costs incidental to acquisition and development,
16 including, but not limited to, surveying expenses, fencing, and
17 signing.

18 (4) The committee may not approve a project of a local agency where
19 the share contributed by the local agency is less than the amount to be
20 awarded from the outdoor recreation account.

21 (5) The committee may adopt rules establishing acquisition policies
22 and priorities for the acquisition and development of trails and water
23 access sites to be financed from moneys in the outdoor recreation
24 account.

25 (6) In determining the acquisition and development priorities, the
26 committee shall consider, at a minimum, the following criteria:

27 (a) For trails proposals:

28 (i) Community support for the project;

29 (ii) Immediacy of threat to the site;

30 (iii) Linkage between communities;

31 (iv) Linkage between trails;

32 (v) Existing or potential usage;

33 (vi) Consistency with ~~((an existing))~~ a local land use plan, or a
34 regional or statewide recreational or resource plan, including projects
35 that assist in the implementation of local shoreline master plans
36 updated according to RCW 90.58.080 or local comprehensive plans updated
37 according to RCW 36.70A.130;

38 (vii) Availability of water access or views;

- 1 (viii) Enhancement of wildlife habitat; and
2 (ix) Scenic values of the site.
3 (b) For water access proposals:
4 (i) Community support for the project;
5 (ii) Distance from similar water access opportunities;
6 (iii) Immediacy of threat to the site;
7 (iv) Diversity of possible recreational uses; ~~((and))~~
8 (v) Public demand in the area; and
9 (vi) Consistency with a local land use plan, or a regional or
10 statewide recreational or resource plan, including projects that assist
11 in the implementation of local shoreline master plans updated according
12 to RCW 90.58.080 or local comprehensive plans updated according to RCW
13 36.70A.130.

14 ~~(7) ((Before October 1st of each even-numbered year, the committee~~
15 ~~shall recommend to the governor a prioritized list of state agency~~
16 ~~projects to be funded under RCW 79A.15.050(1) (a), (c), and (d). The~~
17 ~~governor may remove projects from the list recommended by the committee~~
18 ~~and shall submit this amended list in the capital budget request to the~~
19 ~~legislature. The list shall include, but not be limited to, a~~
20 ~~description of each project; and shall describe for each project any~~
21 ~~anticipated restrictions upon recreational activities allowed prior to~~
22 ~~the project.~~

23 ~~(8))~~ Before ~~((October))~~ November 1st of each even-numbered year,
24 the committee shall recommend to the governor a prioritized list of all
25 state agency and local projects to be funded under RCW 79A.15.050(1)
26 (a), (b), (c), and (d). The governor may remove projects from the list
27 recommended by the committee and shall submit this amended list in the
28 capital budget request to the legislature. The list shall include, but
29 not be limited to, a description of each project and any particular
30 match requirement, and describe for each project any anticipated
31 restrictions upon recreational activities allowed prior to the project.

32 **Sec. 10.** RCW 79A.15.080 and 1990 1st ex.s. c 14 s 9 are each
33 amended to read as follows:

34 The committee shall not sign contracts or otherwise financially
35 obligate funds from the habitat conservation account ~~((or))~~, the
36 outdoor recreation account, the riparian protection account, or the
37 farmlands preservation account as provided in this chapter before the

1 legislature has appropriated funds for a specific list of projects.
2 The legislature may remove projects from the list recommended by the
3 governor.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 79.70 RCW
5 to read as follows:

6 The state treasurer, on behalf of the department, must distribute
7 to counties for all lands acquired for the purposes of this chapter an
8 amount in lieu of real property taxes equal to the amount of tax that
9 would be due if the land were taxable as open space land under chapter
10 84.34 RCW except taxes levied for any state purpose, plus an additional
11 amount equal to the amount of weed control assessment that would be due
12 if such lands were privately owned. In counties having less than
13 thirty percent of land in private ownership, the amount in lieu of real
14 property taxes must be based on one hundred percent of the property's
15 true and fair value under chapter 84.40 RCW except taxes levied for any
16 state purpose. The county assessor and county legislative authority
17 shall assist in determining the appropriate calculation of the amount
18 of tax that would be due. The county shall distribute the amount
19 received under this section in lieu of real property taxes to all
20 property taxing districts except the state in appropriate tax code
21 areas the same way it would distribute local property taxes from
22 private property. The county shall distribute the amount received
23 under this section for weed control to the appropriate weed district.

24 NEW SECTION. **Sec. 12.** A new section is added to chapter 79.71 RCW
25 to read as follows:

26 The state treasurer, on behalf of the department, must distribute
27 to counties for all lands acquired for the purposes of this chapter an
28 amount in lieu of real property taxes equal to the amount of tax that
29 would be due if the land were taxable as open space land under chapter
30 84.34 RCW except taxes levied for any state purpose, plus an additional
31 amount equal to the amount of weed control assessment that would be due
32 if such lands were privately owned. In counties having less than
33 thirty percent of land in private ownership, the amount in lieu of real
34 property taxes must be based on one hundred percent of the property's
35 true and fair value under chapter 84.40 RCW except taxes levied for any
36 state purpose. The county assessor and county legislative authority

1 shall assist in determining the appropriate calculation of the amount
2 of tax that would be due. The county shall distribute the amount
3 received under this section in lieu of real property taxes to all
4 property taxing districts except the state in appropriate tax code
5 areas the same way it would distribute local property taxes from
6 private property. The county shall distribute the amount received
7 under this section for weed control to the appropriate weed district.

8 **Sec. 13.** RCW 84.33.140 and 2003 c 170 s 5 are each amended to read
9 as follows:

10 (1) When land has been designated as forest land under RCW
11 84.33.130, a notation of the designation shall be made each year upon
12 the assessment and tax rolls. A copy of the notice of approval
13 together with the legal description or assessor's parcel numbers for
14 the land shall, at the expense of the applicant, be filed by the
15 assessor in the same manner as deeds are recorded.

16 (2) In preparing the assessment roll as of January 1, 2002, for
17 taxes payable in 2003 and each January 1st thereafter, the assessor
18 shall list each parcel of designated forest land at a value with
19 respect to the grade and class provided in this subsection and adjusted
20 as provided in subsection (3) of this section. The assessor shall
21 compute the assessed value of the land using the same assessment ratio
22 applied generally in computing the assessed value of other property in
23 the county. Values for the several grades of bare forest land shall be
24 as follows:

25	LAND	OPERABILITY	VALUES
26	GRADE	CLASS	PER ACRE
27		1	\$234
28	1	2	229
29		3	217
30		4	157
31		1	198
32	2	2	190
33		3	183
34		4	132
35		1	154

1	3	2	149
2		3	148
3		4	113
4		1	117
5	4	2	114
6		3	113
7		4	86
8		1	85
9	5	2	78
10		3	77
11		4	52
12		1	43
13	6	2	39
14		3	39
15		4	37
16		1	21
17	7	2	21
18		3	20
19		4	20
20	8		1

21 (3) On or before December 31, 2001, the department shall adjust by
22 rule under chapter 34.05 RCW, the forest land values contained in
23 subsection (2) of this section in accordance with this subsection, and
24 shall certify the adjusted values to the assessor who will use these
25 values in preparing the assessment roll as of January 1, 2002. For the
26 adjustment to be made on or before December 31, 2001, for use in the
27 2002 assessment year, the department shall:

28 (a) Divide the aggregate value of all timber harvested within the
29 state between July 1, 1996, and June 30, 2001, by the aggregate harvest
30 volume for the same period, as determined from the harvester excise tax
31 returns filed with the department under RCW 84.33.074; and

32 (b) Divide the aggregate value of all timber harvested within the
33 state between July 1, 1995, and June 30, 2000, by the aggregate harvest
34 volume for the same period, as determined from the harvester excise tax
35 returns filed with the department under RCW 84.33.074; and

36 (c) Adjust the forest land values contained in subsection (2) of
37 this section by a percentage equal to one-half of the percentage change

1 in the average values of harvested timber reflected by comparing the
2 resultant values calculated under (a) and (b) of this subsection.

3 (4) For the adjustments to be made on or before December 31, 2002,
4 and each succeeding year thereafter, the same procedure described in
5 subsection (3) of this section shall be followed using harvester excise
6 tax returns filed under RCW 84.33.074. However, this adjustment shall
7 be made to the prior year's adjusted value, and the five-year periods
8 for calculating average harvested timber values shall be successively
9 one year more recent.

10 (5) Land graded, assessed, and valued as forest land shall continue
11 to be so graded, assessed, and valued until removal of designation by
12 the assessor upon the occurrence of any of the following:

13 (a) Receipt of notice from the owner to remove the designation;

14 (b) Sale or transfer to an ownership making the land exempt from ad
15 valorem taxation;

16 (c) Sale or transfer of all or a portion of the land to a new
17 owner, unless the new owner has signed a notice of forest land
18 designation continuance, except transfer to an owner who is an heir or
19 devisee of a deceased owner, shall not, by itself, result in removal of
20 designation. The signed notice of continuance shall be attached to the
21 real estate excise tax affidavit provided for in RCW 82.45.150. The
22 notice of continuance shall be on a form prepared by the department.
23 If the notice of continuance is not signed by the new owner and
24 attached to the real estate excise tax affidavit, all compensating
25 taxes calculated under subsection (11) of this section shall become due
26 and payable by the seller or transferor at time of sale. The auditor
27 shall not accept an instrument of conveyance regarding designated
28 forest land for filing or recording unless the new owner has signed the
29 notice of continuance or the compensating tax has been paid, as
30 evidenced by the real estate excise tax stamp affixed thereto by the
31 treasurer. The seller, transferor, or new owner may appeal the new
32 assessed valuation calculated under subsection (11) of this section to
33 the county board of equalization in accordance with the provisions of
34 RCW 84.40.038. Jurisdiction is hereby conferred on the county board of
35 equalization to hear these appeals;

36 (d) Determination by the assessor, after giving the owner written
37 notice and an opportunity to be heard, that:

1 (i) The land is no longer primarily devoted to and used for growing
2 and harvesting timber. However, land shall not be removed from
3 designation if a governmental agency, organization, or other recipient
4 identified in subsection (13) or (14) of this section as exempt from
5 the payment of compensating tax has manifested its intent in writing or
6 by other official action to acquire a property interest in the
7 designated forest land by means of a transaction that qualifies for an
8 exemption under subsection (13) or (14) of this section. The
9 governmental agency, organization, or recipient shall annually provide
10 the assessor of the county in which the land is located reasonable
11 evidence in writing of the intent to acquire the designated land as
12 long as the intent continues or within sixty days of a request by the
13 assessor. The assessor may not request this evidence more than once in
14 a calendar year;

15 (ii) The owner has failed to comply with a final administrative or
16 judicial order with respect to a violation of the restocking, forest
17 management, fire protection, insect and disease control, and forest
18 debris provisions of Title 76 RCW or any applicable rules under Title
19 76 RCW; or

20 (iii) Restocking has not occurred to the extent or within the time
21 specified in the application for designation of such land.

22 (6) Land shall not be removed from designation if there is a
23 governmental restriction that prohibits, in whole or in part, the owner
24 from harvesting timber from the owner's designated forest land. If
25 only a portion of the parcel is impacted by governmental restrictions
26 of this nature, the restrictions cannot be used as a basis to remove
27 the remainder of the forest land from designation under this chapter.

28 For the purposes of this section, "governmental restrictions" includes:

29 (a) Any law, regulation, rule, ordinance, program, or other action
30 adopted or taken by a federal, state, county, city, or other
31 governmental entity; or (b) the land's zoning or its presence within an
32 urban growth area designated under RCW 36.70A.110.

33 (7) The assessor shall have the option of requiring an owner of
34 forest land to file a timber management plan with the assessor upon the
35 occurrence of one of the following:

36 (a) An application for designation as forest land is submitted; or

37 (b) Designated forest land is sold or transferred and a notice of
38 continuance, described in subsection (5)(c) of this section, is signed.

1 (8) If land is removed from designation because of any of the
2 circumstances listed in subsection (5)(a) through (c) of this section,
3 the removal shall apply only to the land affected. If land is removed
4 from designation because of subsection (5)(d) of this section, the
5 removal shall apply only to the actual area of land that is no longer
6 primarily devoted to the growing and harvesting of timber, without
7 regard to any other land that may have been included in the application
8 and approved for designation, as long as the remaining designated
9 forest land meets the definition of forest land contained in RCW
10 84.33.035.

11 (9) Within thirty days after the removal of designation as forest
12 land, the assessor shall notify the owner in writing, setting forth the
13 reasons for the removal. The seller, transferor, or owner may appeal
14 the removal to the county board of equalization in accordance with the
15 provisions of RCW 84.40.038.

16 (10) Unless the removal is reversed on appeal a copy of the notice
17 of removal with a notation of the action, if any, upon appeal, together
18 with the legal description or assessor's parcel numbers for the land
19 removed from designation shall, at the expense of the applicant, be
20 filed by the assessor in the same manner as deeds are recorded and a
21 notation of removal from designation shall immediately be made upon the
22 assessment and tax rolls. The assessor shall revalue the land to be
23 removed with reference to its true and fair value as of January 1st of
24 the year of removal from designation. Both the assessed value before
25 and after the removal of designation shall be listed. Taxes based on
26 the value of the land as forest land shall be assessed and payable up
27 until the date of removal and taxes based on the true and fair value of
28 the land shall be assessed and payable from the date of removal from
29 designation.

30 (11) Except as provided in subsection (5)(c), (13), or (14) of this
31 section, a compensating tax shall be imposed on land removed from
32 designation as forest land. The compensating tax shall be due and
33 payable to the treasurer thirty days after the owner is notified of the
34 amount of this tax. As soon as possible after the land is removed from
35 designation, the assessor shall compute the amount of compensating tax
36 and mail a notice to the owner of the amount of compensating tax owed
37 and the date on which payment of this tax is due. The amount of
38 compensating tax shall be equal to the difference between the amount of

1 tax last levied on the land as designated forest land and an amount
2 equal to the new assessed value of the land multiplied by the dollar
3 rate of the last levy extended against the land, multiplied by a
4 number, in no event greater than nine, equal to the number of years for
5 which the land was designated as forest land, plus compensating taxes
6 on the land at forest land values up until the date of removal and the
7 prorated taxes on the land at true and fair value from the date of
8 removal to the end of the current tax year.

9 (12) Compensating tax, together with applicable interest thereon,
10 shall become a lien on the land which shall attach at the time the land
11 is removed from designation as forest land and shall have priority to
12 and shall be fully paid and satisfied before any recognizance,
13 mortgage, judgment, debt, obligation, or responsibility to or with
14 which the land may become charged or liable. The lien may be
15 foreclosed upon expiration of the same period after delinquency and in
16 the same manner provided by law for foreclosure of liens for delinquent
17 real property taxes as provided in RCW 84.64.050. Any compensating tax
18 unpaid on its due date shall thereupon become delinquent. From the
19 date of delinquency until paid, interest shall be charged at the same
20 rate applied by law to delinquent ad valorem property taxes.

21 (13) The compensating tax specified in subsection (11) of this
22 section shall not be imposed if the removal of designation under
23 subsection (5) of this section resulted solely from:

24 (a) Transfer to a government entity in exchange for other forest
25 land located within the state of Washington;

26 (b) A taking through the exercise of the power of eminent domain,
27 or sale or transfer to an entity having the power of eminent domain in
28 anticipation of the exercise of such power;

29 (c) A donation of fee title, development rights, or the right to
30 harvest timber, to a government agency or organization qualified under
31 RCW 84.34.210 and 64.04.130 for the purposes enumerated in those
32 sections, or the sale or transfer of fee title to a governmental entity
33 or a nonprofit nature conservancy corporation, as defined in RCW
34 64.04.130, exclusively for the protection and conservation of lands
35 recommended for state natural area preserve purposes by the natural
36 heritage council and natural heritage plan as defined in chapter 79.70
37 RCW or approved for state natural resources conservation area purposes
38 as defined in chapter 79.71 RCW. At such time as the land is not used

1 for the purposes enumerated, the compensating tax specified in
2 subsection (11) of this section shall be imposed upon the current
3 owner;

4 (d) The sale or transfer of fee title to the parks and recreation
5 commission for park and recreation purposes;

6 (e) Official action by an agency of the state of Washington or by
7 the county or city within which the land is located that disallows the
8 present use of the land;

9 (f) The creation, sale, or transfer of forestry riparian easements
10 under RCW 76.13.120;

11 (g) The creation, sale, or transfer of a fee interest or a
12 conservation easement for the riparian open space program under RCW
13 76.09.040;

14 (h) The sale or transfer of land within two years after the death
15 of the owner of at least a fifty percent interest in the land if the
16 land has been assessed and valued as classified forest land, designated
17 as forest land under this chapter, or classified under chapter 84.34
18 RCW continuously since 1993. The date of death shown on a death
19 certificate is the date used for the purposes of this subsection
20 (13)(h); or

21 (i) The sale or transfer of land after the death of the owner of at
22 least a fifty percent interest in the land if the land has been
23 assessed and valued as classified forest land, designated as forest
24 land under this chapter, or classified under chapter 84.34 RCW
25 continuously since 1993 and the sale or transfer takes place after July
26 22, 2001, and on or before July 22, 2003, and the death of the owner
27 occurred after January 1, 1991. The date of death shown on a death
28 certificate is the date used for the purposes of this subsection
29 (13)(i).

30 (14) In a county with a population of more than one million
31 inhabitants, the compensating tax specified in subsection (11) of this
32 section shall not be imposed if the removal of designation as forest
33 land under subsection (5) of this section resulted solely from:

34 (a) An action described in subsection (13) of this section; or

35 (b) A transfer of a property interest to a government entity, or to
36 a nonprofit historic preservation corporation or nonprofit nature
37 conservancy corporation, as defined in RCW 64.04.130, to protect or
38 enhance public resources, or to preserve, maintain, improve, restore,

1 limit the future use of, or otherwise to conserve for public use or
2 enjoyment, the property interest being transferred. At such time as
3 the property interest is not used for the purposes enumerated, the
4 compensating tax shall be imposed upon the current owner.

5 **Sec. 14.** RCW 77.12.203 and 1990 1st ex.s. c 15 s 11 are each
6 amended to read as follows:

7 (1) Notwithstanding RCW 84.36.010 or other statutes to the
8 contrary, the director shall pay by April 30th of each year on game
9 lands in each county, if requested by an election under RCW 77.12.201,
10 an amount in lieu of real property taxes equal to that amount paid on
11 similar parcels of open space land taxable under chapter 84.34 RCW or
12 the greater of seventy cents per acre per year or the amount paid in
13 1984 plus an additional amount for control of noxious weeds equal to
14 that which would be paid if such lands were privately owned. This
15 amount shall not be assessed or paid on department buildings,
16 structures, facilities, game farms, fish hatcheries, tidelands, or
17 public fishing areas of less than one hundred acres.

18 (2) "Game lands," as used in this section and RCW 77.12.201, means
19 those tracts one hundred acres or larger owned in fee by the department
20 and used for wildlife habitat and public recreational purposes. All
21 lands purchased for wildlife habitat, public access or recreation
22 purposes with federal funds in the Snake River drainage basin shall be
23 considered game lands regardless of acreage.

24 (3) This section shall not apply to lands transferred after April
25 23, 1990, to the department from other state agencies.

26 (4) The county shall distribute the amount received under this
27 section in lieu of real property taxes to all property taxing districts
28 except the state in appropriate tax code areas the same way it would
29 distribute local property taxes from private property. The county
30 shall distribute the amount received under this section for weed
31 control to the appropriate weed district.

32 NEW SECTION. **Sec. 15.** (1) The interagency committee for outdoor
33 recreation may apply up to three percent of the funds appropriated for
34 chapter 79A.15 RCW for the administration of the programs and purposes
35 specified in chapter 79A.15 RCW.

1 (2) Habitat and recreation land and facilities acquired or
2 developed with moneys appropriated for chapter 79A.15 RCW may not,
3 without prior approval of the interagency committee for outdoor
4 recreation, be converted to a use other than that for which funds were
5 originally approved. The interagency committee for outdoor recreation
6 shall adopt rules and procedures governing the approval of such a
7 conversion.

8 (3) This section expires July 1, 2007.

9 NEW SECTION. **Sec. 16.** Sections 1 through 14 of this act take
10 effect July 1, 2007.

11 NEW SECTION. **Sec. 17.** Section 15 of this act is necessary for the
12 immediate preservation of the public peace, health, or safety, or
13 support of the state government and its existing public institutions,
14 and takes effect July 1, 2005."

ESSB 5396 - H COMM AMD
By Committee on Capital Budget

ADOPTED 04/14/2005

15 On page 1, line 2 of the title, after "programs;" strike the
16 remainder of the title and insert "amending RCW 79A.15.010, 79A.15.030,
17 79A.15.040, 79A.15.050, 79A.15.060, 79A.15.070, 79A.15.080, 84.33.140,
18 and 77.12.203; adding new sections to chapter 79A.15 RCW; adding a new
19 section to chapter 79.70 RCW; adding a new section to chapter 79.71
20 RCW; creating a new section; providing effective dates; providing an
21 expiration date; and declaring an emergency."

EFFECT: Authorizes the Interagency Committee for Outdoor
Recreation to provide funding for alternate projects from the same
account in the next biennium if the funds are not obligated to a

specific project. Removes a restriction that at least 50 percent of the Riparian Protection Account and Farmland Preservation Account must be used for the acquisition of nonperpetual real property interests not exceeding 50 years in duration. Requires that moneys from the Riparian Protection Account and the Farmland Preservation Account to fund mitigation banking projects must meet the 50 percent matching requirement. Removes requirements for cities and counties to determine the reduction in land suitable for development and replace those lands when acquiring property with funds from the Riparian Protection Account. Removes provisions that the Director of the Department of Fish and Wildlife pay an amount in lieu of real property taxes based on 100 percent of true and fair value on lands in counties having less than 30 percent of land in private ownership.

--- END ---